IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No.1141 of 2004
Date of decision: November 17, 2006.

Bant Singh

...**Petitioner(s)**

v.

Puran Singh & Ors.

...**Respondent(s)**

Present: Shri H.S. Kamboj, Advocate for the petitioner.

Shri V.G. Dogra, Advocate for the respondents.

Surya Kant, J. (Oral)

This contempt petition has been filed, *inter-alia*, alleging that the interim orders dated 7.8.1992 and 18.9.1992 passed in RSA No.1282 of 1992 have been deliberately, willfully and knowingly violated by the respondents.

[2]. A few facts may be noticed.

Respondent No.1 (Puran Singh) filed a suit for permanent injunction against the petitioner and some other persons claiming himself to be owner in possession of the plot in dispute in which eucalyptus trees had been planted. The aforesaid suit was decreed by the learned Sub Judge, First Class, Ropar vide judgment and decree dated 6.9.1988 but on an appeal filed by the petitioner, the said judgment and decree were set aside by the learned District Judge, Ropar vide his judgment dated 26.5.1992. Consequently, the suit filed by respondent No.1 stood dismissed.

[3]. Aggrieved, respondent No.1 preferred Regular Second Appeal No.1282 of 1992 in this court in which on 7.8.1992, the following interim order was passed:-

> "Counsel for the respondents prays for time to file reply, one more opportunity is given. To come up on 26.8.1992. The appellant is directed not to cut the trees till further orders. Dasti"

[4]. The above stated interim order was confirmed and made absolute on 18.9.1992 when the following order was passed:-

> "After hearing the learned counsel for the parties, the interim order passed on 7.8.1992 is confirmed."

[5]. The regular second appeal is still pending and, thus, the above stated interim orders are operative.

[6]. Alleging that despite the above stated restraint orders, respondent No.1, in connivance with respondents No.2 and 3, engaged about 20 labourers and had started cutting the trees on 28.8.2004 from the land in dispute and did not stop despite intervention by the petitioner, this contempt petition has been filed.

[7]. Before filing this petition, the petitioner also lodged a report with the police station at Kurali and sent telegraphic information to Hon'ble the Chief Justice of this Court, SSP, Ropar and SHO, PS Kurali on 29.8.2004 (copies Annexures P1 to P3). The petitioner also photographed the tractor-trolleys carrying loads of cut eucalyptus trees. Those photographs have also been appended as Annexures P-4 and P-5.

[8]. A prima-facie case having been made out, show cause notice was issued to respondent No.1 only as to why proceedings under the

Contempt of Courts Act, 1971 be not initiated against him. The said respondent, however, did not appear despite service, therefore, bailable warrants were issued to secure his presence. Respondent No.1 thereafter did appear and filed his reply by way of affidavit dated 3.8.2005. In the said affidavit, first respondent took the following preliminary objection No.1 in support of his defence:-

> "1. That the petitioner had entered into an agreement with the answering respondent on 9.6.2004, agreeing that trees may be cut with mutual consent. The copy of the agreement dated 9.6.2004 is attached as Annexure R-1/1 with the reply. The petitioner having taken the stand for cutting the trees, now cannot turn around and allege that there is violation of the orders." (emphasis applied)

[9]. The first respondent, thus, came up with the plea that the petitioner had concealed material facts as the trees were allegedly cut after entering into an agreement with the petitioner and with his mutual consent.

[10]. The petitioner filed a rejoinder by way of affidavit dated 15.9.2005 in which he took the stand that the alleged agreement (Annexure R-1) is a totally forged and fabricated document which was ever executed between the parties. The petitioner took a specific plea that "the deponent never signed any agreement". The petitioner further averred that not even a single *safeda* (eucalyptus) tree has been sold by mutual consent though respondent No.1 had cut and sold over 100 fully grown eucalyptus trees.

[11]. In view of the above noticed respective pleas taken by the parties and keeping in view the insistence of respondent No.1 that the alleged compromise (Annexure R1) was signed by the petitioner, this court,

on 20.9.2005, passed the following order:-

> "*During the course of arguments it has been repeatedly stated by the respondent who is present in person that signatures on the compromise dated 2004 are those of Bant Singh, petitioner. The original compromise has been kept in a sealed cover. The office is directed to get the signatures on the original compromise and the admitted signatures on the power of attorney and rejoinder examined from the admitted signatures on the power of attorney and rejoinder examined from the hand writing expert. Both the parties are directed to deposit fifty per cent each of the expenses. The expenses shall be settled in accordance with the decision of the contempt proceedings. The needful shall be done within a period of one week and thereafter report of the hand writing expert be obtained within a period of one month.*"

[12]. In compliance to the aforesaid order, the original agreement purported to have been signed by the petitioner was sent for examination to the Govt. Forensic Science Laboratory, Punjab at Chandigarh. The Assistant Director, Forensic Science Laboratory, Punjab, vide report dated 30.11.2005, concluded as follows:-

> "The divergences in the writing habits found between the questioned and standard signatures are significant and sufficient and are not due to natural variation or intended disguise but are due to different authorship.
>
> 2) In the red enclosed questioned portion stamped and marked Q2 above the red enclosed questioned signature marked Q1, it appears that the signature/writings reading as *Inder Kaur* in Gurmukhi have been erased with some mechanical eraser."

[13]. Thus, as per the report of the hand-writing expert, the

petitioner's signatures on the alleged agreement (Annexure R1) are forged and for the said purpose a few words were erased with some mechanical eraser.

[14]. The parties were permitted to inspect the above stated report and then to make their submissions. Thereafter, respondent No.1 filed an affidavit dated 25.4.2006 in which following objections have been raised against the report of the hand-writing expert:-

> "*(a) That since the deponent apprehends that Bant Singh must have changed his signatures while signing Vakalatnama and other documents, and therefore, there was every possibility that his signatures do not tally with those appearing on Annexure R-1/1.*
>
> *(b) It would have been in fitness of things, if signatures of Bant Singh – petitioner were obtained afresh and then those were got compared not only with Annexure R-1/1, but with Vakalatnama and other documents, which would have shown that whether he has been changing his signatures because in that case, his signatures obtained by the Court or before the Registrar would not have tallied even with Vakalatnama.*"

[15]. Learned Counsel for the parties were heard on 7.9.2006. However, upon request made on behalf of respondent No.1, the matter was further adjourned. On the adjourned date, respondent No.1 filed another affidavit dated 17.10.2006 in which he claims that only 8/10 *safeda* trees were cut and that "the market value of these trees is around Rs.1,000/- approximately".

[16]. Thereafter, Learned Counsel for the parties have been heard on merits and the records have been perused.

[17]. There is no denial to the fact by respondent No.1 that vide interim order dated 7.8.1992 passed by this Court in Regular Second Appeal filed by him, he was specifically directed "not to cut the trees till further orders". The subsequent confirmation of that order is also not in dispute. It is not his case nor can he plead that the above stated interim orders were not in his knowledge as the same were passed in an appeal preferred by none-else than the first respondent only.

[18]. The fact that the trees have been cut on 28/29.8.2004 by him, is also admitted by the first respondent. The only plea, to justify the action, is that the trees were cut with the consent of the petitioner with whom the alleged agreement (Annexure R1/1) was entered into. The said agreement, on examination by the hand-writing expert under the orders of this court, has been found to be forged i.e. not bearing signatures of the petitioner. The defence plea taken by the first respondent, thus, is not only falsified, but it also compounds the gravity of his contemptuous action.

[19]. I have considered the objections raised by respondent No.1 against the report of the hand-writing expert. His plea that the petitioner must have changed his signatures while signing *wakalatnama* or other documents is nothing but a figment of imagination. The petitioner's signatures on the contempt petition and the rejoinder-affidavit filed by him have been got compared with his purported signatures on the alleged agreement (Annexure R1/1). As per the report of the hand-writing expert, the agreement (Annexure R1/1) does not bear the petitioner's signatures and the same have been forged with the help of mechanical eraser. That apart,

the objection raised by respondent No.1 in his affidavit dated 25.4.2006, was very much a plea available to him at the time when the order dated 20.9.2005 was passed in the presence of both the parties whereby "signatures on the original compromise and the admitted signatures on the power of attorney and rejoinder" were directed to be got examined from the hand-writing expert.

[20]. The hand-writing expert had no interest in either of the parties. The report has been submitted by a government's reputed agency and there appears to be no reason whatsoever for not submitting an impartial and genuine report by the said agency. Consequently, the objections raised by the first respondent against the report of the hand-writing expert are rejected.

[21]. The irresistible and inescapable conclusion would be that respondent No.1 is guilty of "cutting the trees from the plot in dispute by deliberately and willfully violating the interim orders dated 7.8.1992 and 18.9.1992 passed by this Court in RSA No.1282 of 1992".

[22]. An opportunity was given to Learned Counsel for the respondent No.1 to address this court on the issue of nature and quantum of sentence, which, in the event of holding respondent No.1 guilty of committing contempt of this court, was to be imposed on him.

[23]. As may be seen from the different pleas taken by respondent No.1 from time to time in his affidavits, he has never been fair, truthful or remorseful before this court. In every affidavit, an attempt has been made by him to mislead the court so as to wriggle out of these proceedings. Even in his last affidavit, respondent No.1 did not hesitate to take a totally false plea that only 8/10 trees were cut and their market value is Rs.1,000/- only.

The aforesaid plea is apparently false. From the photographs on record, the petitioner appears to be right that the respondent No.1 has cut and sold of over 100 eucalyptus trees. The respondent No.1 has, thus, scant respect for the court or its orders.

[24]. Consequently, and for the reasons afore-stated, it is held that respondent No.1 is guilty of willful and deliberate breach of the interim orders dated 7.8.1992 and 18.9.1992 and accordingly, I convict him under Section 12 of the Contempt of Courts Act, 1971.

[25]. As regard to the quantum of sentence, it may be noticed that no attempt has been made by respondent No.1 to purge the contempt. His repeated false pleas warrant severe punishment. The respondent No.1 is accordingly sentenced to undergo three months simple imprisonment along with fine of Rs.2,000/-. In case respondent No.1 fails to deposit the fine within one month of getting certified copy of this order, he shall further undergo simple imprisonment of one month. He is directed to surrender in the court of Chief Judicial Magistrate, Ropar within 15 days of expiry of the period of limitation for filing appeal failing which learned Chief Judicial Magistrate is directed to issue non-bailable warrants and take the respondent No.1 into custody so that he undergoes the awarded sentence.

[26]. However, in order to give one more opportunity to respondent No.1 to purge the contempt, it is directed that if he so desires, may move an application before the Divisional/District Forest Office, Ropar within two months from today, who, in turn, shall depute a forest officer to visit the spot and assess the market value of the 100 eucalyptus trees which have been allegedly cut and sold by respondent No.1 and if the price value of 100 eucalyptus trees so assessed, as per the prevalent market value, is deposited

by respondent No.1 within one week of such assessment with the Registry of this Court, who shall in turn put the same in fixed deposit in a nationalized bank, then the above mentioned order of sentence shall remain in abeyance.

[27]. It is further directed that if the application is moved by respondent No.1 before the Divisional/District Forest Officer. Ropar, as observed above, the entire exercise of assessing the market value shall be done by the said authority within two weeks.

[28]. The aforesaid amount shall be disbursed in terms of the final decision in RSA No.1282 of 1992.

[29]. A copy of this order be also handed over to Shri G.S. Cheema, learned Sr. DAG, Punjab, for information and necessary action at the ends of the authorities in the Forest Department.

Disposed of.

A compliance report shall also be placed on record.

November , 2006. [**Surya Kant**]
kadyan **Judge**